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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ALVESTEFFER, STEPHEN D

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,968	Applicant(s) MCCROSSAN ET AL.	
	Examiner Stephen Alvesteffer	Art Unit 2175	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2008 and 04 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-38 is/are pending in the application.
- 4a) Of the above claim(s) 31,32,35 and 36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29,30,33,34,37 and 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20080530</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This Office Action is responsive to the Amendment filed June 18, 2008 and the Response to Restriction filed November 4, 2008.

Applicant's election without traverse of claims 29, 30, 33, 34, 37, and 38 (Species II and generic claims) in the reply filed on November 4, 2008 is acknowledged.

Accordingly, claims 1-28 were previously cancelled. Claims 29-38 are new. Claims 29, 33, 37, and 38 are independent. Claims 29-38 remain pending. Of the pending claims, claims 31, 32, 35, and 36 are non-elected.

The Information Disclosure Statement (IDS) filed May 30, 2008 has been considered by the examiner.

Claim Objections

Claims 33 and 34 are objected to because of the following informalities:

- Claim 33 line 9 should be corrected from "the interactive control segment includes multi-page **information**. **-and** time information" to –the interactive control segment includes multi-page **information and** time information—
- Claim 34 line 4 should be corrected from “transitioning from the **–first** page only display state” to –transitioning from the **first** page only display state—

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 29 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claim 29 lines 9-10, it is unclear what is meant by “used to present the graphic object in a state of button material”. “button material” is not adequately described in the specification and its meaning is unclear. Clarification is requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 29, 33, 37, and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Reisman, United States Patent Application Publication 2003/0229900.

Regarding claim 29, Reisman teaches a recording medium having recorded thereon a video stream and a graphics stream (see Reisman paragraph [0042] for definition of “stream”), wherein:

the graphics stream includes one or more interactive control segment and an object definition segment defining a graphics object (see Reisman Figure 3 and paragraph [0121]; *“A more advanced ITV screen typical on what may be produced by a common ITV system driving a TV is shown as ITV screen 320. This represents an active navigation of ITV hypermedia or hypermedia-like resources, including menu 322, which provides a simple list of options, usually in simple text, but potentially with graphics as well”*);

the interactive control segment includes multi-page information and time information (see Reisman paragraph [0545]; *“A scenario that combines both multi-tasking and variable use of the MMUI device sets might involve using a TV to view main menu overlays on the TV. The overlays might automatically appear in synch with any current channel or only on command”*);

the multi-page information defines a display composition of a multi-page menu (see Reisman paragraph [0414]; *“...a navigation hierarchy having base video, interactive indicator bugs, first level menus, i-th level menus, brief text pages, long and multi-page text pages...”*);

the multi-page information includes one or more button information (see Reisman Figure 9 and paragraph [0699]; *“Control panel 920... might use buttons, icons, or images, or other indication and selection methods”*);

the button information indicates information used to present the graphic object in a state of button material and to provide an interactive display composition on the page (see Reisman Figure 9 and paragraph [0699]; *“Control panel 920... might use buttons, icons, or images, or other indication and selection methods”*);

the multi-page menu includes a no menu display state, a first page only display state and a multi-page display state (see Reisman Figure 9 and paragraph [0542]; *“A scenario that sticks to a single channel on TV... the user might request a transfer to a PC for lean-forward interaction, possibly removing all overlays from the TV... Some overlay screens might also remain active on the TV”*); and

the time information includes information to transition the display state of the multi-page menu in accordance with reproduction proceeding of the video Stream (see Reisman paragraph [0863]; *“the TVC parameters are used to provide enhanced services that exploit that information, such as to provide pages specific to a given program, or time within a program”*).

Claim 33 recites a playback apparatus having substantially the same limitations as the recording medium of claim 29. Therefore, claim 33 is rejected under the same rationale.

Claim 37 recites a method having substantially the same limitations as the recording medium of claim 29. Therefore, claim 37 is rejected under the same rationale.

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Claim 38 recites a method having substantially the same limitations as the recording medium of claim 29. Therefore, claim 38 is rejected under the same rationale.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 30 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reisman (2003/0229900) *supra* and Malamud et al. (hereinafter Malamud), United States Patent 5,664,133.

Regarding claim 30, Reisman teaches every limitation of claim 30 except that the time information includes time out information; and the time out information indicates

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a time to automatically activate the button in a selected state on the first page, thereby transitioning from the first page only display state to the multi-page display state.

However, Malamud teaches indicating a time to automatically activate a button of a main menu display to transition to a multi-page display state (see Malamud column 6 lines 52-59; *"If the user moves the display pointer 20 over a cascade menu name in the context menu 34 such as the "Send" selection in the example in FIG. 2, then only the triangle 36 changes its color or shade and a cascade menu (illustratively depicted in FIG. 8) automatically appears after a short delay to prevent flashing of the cascade when the display pointer 20 is merely drawn quickly through the cascade name in order to access another menu selection"*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the automatic button activation of Malamud in the overlay menu display system of Reisman so that users can navigate the menus without pressing buttons.

Claim 34 recites a playback apparatus having substantially the same limitations as the recording medium of claim 30. Therefore, claim 34 is rejected under the same rationale.

Response to Arguments

The Abstract was objected to because it was not on a separate sheet. The new Abstract filed June 19, 2008 is accepted by the examiner. Accordingly, the objection to the Abstract is withdrawn.

Claim 27 was rejected under 35 USC 101 for being directed to non-statutory subject matter. Claim 27 was cancelled in the most recent amendment. Accordingly, all 35 USC 101 rejections are withdrawn.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Newly cited prior art Reisman (2003/0229900) *supra* teaches systems and methods for navigating hypermedia. Malamud (5,664,133) *supra* teaches a context sensitive menu system with similar behavior as the multi-page menus of the instant application.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Okada et al. (US 2004/0047588) Package medium, reproduction apparatus, and reproduction method

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Alvesteffer whose telephone number is (571)270-1295. The examiner can normally be reached on Monday-Friday 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore can be reached on (571)272-4088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Stephen Alvesteffer
Examiner
Art Unit 2175

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